



February 25, 2005

## SENATE BILL No. 38

DIGEST OF SB 38 (Updated February 24, 2005 9:18 am - DI 110)

**Citations Affected:** IC 24-5.

**Synopsis:** Gift certificates. Provides that a gift certificate may not expire in less than 12 months or be reduced in value for delayed use or nonuse unless certain conditions are met. Requires that specific language be printed on a gift certificate or on a sticker permanently affixed to a gift certificate. Provides that certain other printed material may not be printed on a gift certificate or a sticker permanently affixed to a gift certificate.

**Effective:** July 1, 2005.

**Antich-Carr, Kenley, Breaux, Server,  
Hume, Lanane, Sipes, Young R,  
Landske, Rogers, Broden, Alting,  
Bray, Steele, Skinner, Lutz L, Bowser,  
Waterman**

January 4, 2005, read first time and referred to Committee on Commerce and Transportation.  
February 24, 2005, amended, reported favorably — Do Pass.

C  
o  
p  
y

SB 38—LS 6001/DI 103+



February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 38

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 24-5-23 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2005]:

4 **Chapter 23. Gift Certificates**

5 **Sec. 1. As used in this chapter, "activity" includes the following**  
6 **uses of a gift certificate:**

7 (1) **Acquiring or purchasing goods or services with the gift**  
8 **certificate.**

9 (2) **Checking the balance of the gift certificate.**

10 (3) **Adding value to the gift certificate.**

11 (4) **Redeeming the gift certificate for cash.**

12 **Sec. 2. As used in this chapter, "gift certificate" means a**  
13 **representation or other evidence of an obligation of a person**  
14 **arising from a transaction that requires the person to provide**  
15 **goods or services. The term includes the following:**

16 (1) **A gift certificate.**

17 (2) **A stored value card.**

SB 38—LS 6001/DI 103+



C  
o  
p  
y

(3) A gift card.

(4) An online gift account.

**Sec. 3.** As used in this chapter, "person" means an individual, a corporation, the state or its subdivisions or agencies, a business trust, an estate, a trust, a partnership, an association, a cooperative, or any other legal entity.

**Sec. 4.** (a) Except as provided in this section, this chapter applies to gift certificates that are issued after October 31, 2005.

(b) This chapter does not apply to the following gift certificates:

(1) A gift certificate issued by:

(A) a financial institution (as defined in IC 22-2-4-1); or

(B) a person licensed by the Indiana department of financial institutions under IC 28-8-4.

(2) A gift certificate issued without consideration by a person other than a financial institution (as defined in IC 22-2-4-1) under an awards program, a loyalty program, or a promotional program.

(3) A gift certificate issued for less than face value to:

(A) an employer;

(B) a charitable organization exempt from federal taxation under Section 501 of the Internal Revenue Code; or

(C) a nonprofit organization;

for fundraising purposes.

**Sec. 5.** Except as provided in sections 6 and 7 of this chapter, a gift certificate may not be subject to the following:

(1) An expiration date.

(2) A fee, including a service or maintenance fee.

(3) A dormancy or inactivity charge.

**Sec. 6.** A gift certificate may be subject to an expiration date if the following requirements are satisfied:

(1) The language "Expires: (insert date)." is printed in at least 10 point type on the gift certificate or on a sticker permanently affixed to the gift certificate.

(2) The expiration date is at least twelve (12) months after the issuance of the gift certificate.

**Sec. 7.** A gift certificate may be subject to a dormancy or inactivity charge if the following requirements are satisfied:

(1) The dormancy or inactivity charge accrues only after there has been no activity on the gift certificate for at least six (6) months.

(2) The dormancy or inactivity charge does not exceed two dollars and fifty cents (\$2.50) per month.

**C  
o  
p  
y**



(3) The words "This certificate diminishes in value after (insert date) in the amount of (insert dollar amount) per month." are printed in at least 10 point type on the gift certificate or on a sticker permanently affixed to the gift certificate.

Sec. 8. (a) The following may be printed on a gift certificate:

(1) The amount of the balance on the gift certificate.

(2) The name of the person that issued the gift certificate.

(b) Except as provided in sections 6 and 7 of this chapter and subsection (a), a gift certificate may not have any printed material on the gift certificate or on a sticker permanently affixed to the gift certificate.

Sec. 9. A provision in an agreement creating a gift certificate that conflicts with this chapter is void.

C  
o  
p  
y



SENATE MOTION

Madam President: I move that Senator Sipes be added as second author of Senate Bill 38.

ANTICH-CARR

---

SENATE MOTION

Madam President: I move that Senator Kenley be added as coauthor of Senate Bill 38.

ANTICH-CARR

---

SENATE MOTION

Madam President: I move that Senators Breaux and Server be added as coauthors of Senate Bill 38.

ANTICH-CARR

---

SENATE MOTION

Madam President: I move that Senators Hume, Lanane and Simpson be added as coauthors of Senate Bill 38.

ANTICH-CARR

---

SENATE MOTION

Madam President: I move that Senator Kenley be removed as coauthor of Senate Bill 38.

KENLEY

C  
o  
p  
y



SENATE MOTION

Madam President: I move that Senator Sipes be removed as second author of Senate Bill 38.

SIPES

SENATE MOTION

Madam President: I move that Senator Kenley be added as second author and Senators Sipes and Young R be added as coauthors of Senate Bill 38.

ANTICH-CARR

SENATE MOTION

Madam President: I move that Senators Landske and Rogers be added as coauthors of Senate Bill 38.

ANTICH-CARR

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 38.

ANTICH-CARR

SENATE MOTION

Madam President: I move that Senator Simpson be removed as coauthor of Senate Bill 38.

SIMPSON

**C**  
**O**  
**P**  
**Y**



SENATE MOTION

Madam President: I move that Senator Alting be added as coauthor of Senate Bill 38.

ANTICH-CARR

---

SENATE MOTION

Madam President: I move that Senator Bray be added as coauthor of Senate Bill 38.

ANTICH-CARR

---

SENATE MOTION

Madam President: I move that Senator Steele be added as coauthor of Senate Bill 38.

ANTICH-CARR

---

SENATE MOTION

Madam President: I move that Senator Skinner be added as coauthor of Senate Bill 38.

ANTICH-CARR

---

SENATE MOTION

Madam President: I move that Senator Lutz L be added as coauthor of Senate Bill 38.

ANTICH-CARR

**C**  
**O**  
**P**  
**Y**



## SENATE MOTION

Madam President: I move that Senator Bowser be added as coauthor of Senate Bill 38.

ANTICH-CARR

---

SENATE MOTION

Madam President: I move that Senator Waterman be added as coauthor of Senate Bill 38.

ANTICH-CARR

**C  
o  
p  
y**



## COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Transportation, to which was referred Senate Bill No. 38, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 8, delete "June 30, 2005." and insert "**October 31, 2005.**".

Page 2, line 10, after "by" insert ":

**(A)**".

Page 2, line 11, delete "IC 22-2-4-1)." and insert "**IC 22-2-4-1); or (B) a person licensed by the Indiana department of financial institutions under IC 28-8-4.**".

Page 2, line 29, delete "expiration date" and insert "**language 'Expires: (insert date).'**".

Page 2, line 38, delete "twenty-four (24)" and insert "**six (6)**".

Page 2, delete lines 39 through 40.

Page 2, line 41, delete "(3)" and insert "**(2)**".

Page 2, line 41, delete "one" and insert "**two dollars and fifty cents (\$2.50)**".

Page 2, line 42, delete "dollar (\$1)".

Page 2, line 43, delete "(4)" and insert "**(3)**".

Page 2, line 43, delete "requirements set forth in subdivisions (1) through (3)" and insert "**words 'This certificate diminishes in value after (insert date) in the amount of (insert dollar amount) per month.'**".

Page 3, between lines 1 and 2, begin a new paragraph and insert:

**"Sec. 8. (a) The following may be printed on a gift certificate:**

**(1) The amount of the balance on the gift certificate.**

**(2) The name of the person that issued the gift certificate.**

**(b) Except as provided in sections 6 and 7 of this chapter and subsection (a), a gift certificate may not have any printed material on the gift certificate or on a sticker permanently affixed to the gift certificate."**

Page 3, line 2, delete "8." and insert "**9.**".

Page 3, delete lines 4 through 40.

and when so amended that said bill do pass.

(Reference is to SB 38 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 6, Nays 4.

SB 38—LS 6001/DI 103+



C  
o  
p  
y